IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

WRIT PETITION NO. 1256 OF 2003

PETITIONER : Ramjilal Agrawal
S/o Late Tarachand Agrawal
Aged about 59 years,
Occupation : Sports Officer
(Govt. P.D.Commerce and Arts College
Raigarh) R/o Kotara Road, Raigarh,
Distt. Raigarh (C.G.)

P.R. No. ... Presented by Shri Manoj Kumar Pandey ... dated 02/04/03

VERSUS

RESPONDENTS : 1. State of Chhattisgarh
Through : Secretary High
Education Department, Mantralaya,
D.K.S. Bhawan, Raipur (C.G.)

2. Principal
Govt. P.D. Commerce and Arts
College Raigarh,
Distt. Raigarh (C.G.)

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शपथ आयुक्त सीताराम जाटवर शपथ आयुक्त, रायगढ़ शपथपत्रक. 650

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTIONS OF INDIA

(57)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 1256/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11.08.2003

Shri Vineet Pandey, counsel for the petitioner.

Ku.Sofia Khan, Deputy Government Advocate for the respondents.

Heard finally.

By this writ petition filed under Articles 226/227 of the Constitution of India petitioner prays for quashing the order dated 25.2.2003 passed by respondent no.2 whereby it was communicated that the petitioner would retire w.e.f. 31.5.2003.

Petitioner is working as a Sports Officer in a Government College, Raigarh. He contends that being a Senior Sports Officer he is entitled to continue upto 62 years and the decision of respondent no.2 (Annexure P-1) that on attaining the age of 60 years, he would retire on 31.5.2003 is illegal and contrary to law.

Learned counsel for the State submits that the Sports Officer is not come within the definition of the Teacher.

Learned counsel for the petitioner submits that earlier the matter came up for consideration before the Tribunal and it was decided in O.A.No.3104/2000 (Krishna Gopal Tripathi, Senior

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मामला क्रमांक W.P. 1256/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Sports Officer, Rewa –v- State of M.P. and 4 others) where the Tribunal accepted the contention of the petitioner and allowed the said petition by order dated 20.5.2002 (Annexure P-6). Against the decision of the Tribunal, State has preferred writ petition before this Court. The Division Bench of this Court in W.P.No.1827/2002 decided on 20.6.2002 held that the Physical Teacher comes within the definition of the Teacher and as such he is entitled to all the benefits available to the teacher.

Sd/- Judge

Learned counsel for the petitioner relied on a decision of the Supreme Court reported in *1997 S.C. 3133 (P.S. Rammohana Rao Vs- A.P. Agricultural University and others)* in which it has been categorically stated as under:

> *"it may be that the Physical Director gives his guidance or teaching to the students only in the evening after the regular classes are over. It may also be that the University has not prescribed in writing any theoretical and practical classes for the students so far as physical education is concerned. Among various duties of the Physical Director, expressly or otherwise, are included the duty to teach the skills of various games as well as their rules and practices. The said*

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

duties bring him clearly within the main part of the definition as a 'Teacher'. He is therefore not liable to superannuate after completion of 58 years, but is entitled to continue till he completed 60 years of service."

Having considered the facts and circumstances of the case and material on record and in view of the decision of the Supreme Court cited above, the Sports Officer comes within the definition of the Teacher, as such the petitioner being a Senior Sports Officer is entitled to continue upto the age of 60 years. Accordingly, the order dated 25.2.2003 (Annexure P-1) issued by respondent no.2 is quashed.

This petition is disposed of with the direction aforesaid.

C.C. as per rules.

Sd/-
Fakhruddin
Judge

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16-08-03